

ADM File No. 2010-14

10/12/2011

Mr. Corbin Davis
Clerk of the Court
Michigan Supreme Court

I have two comments or suggestions regarding ADM File No. 2010-14.

1. The proposed MCR 6.202 would only apply to felony cases, unless MCR 6.001(B) is also amended.
2. I would suggest MCR 6.202(B)(2) be amended to clarify two things: (a) the permissive nature of Defendant's objection; and (b) whether or not the court is required to conduct a hearing in open court regarding the admissibility of the evidence. I would suggest the following amendment:

(2) Demand. Upon receipt of a copy of the laboratory report and certificate, the defendant's attorney, or the defendant if the defendant is not represented by an attorney, shall **have 14 days to** file a written objection to the use of the laboratory report and certificate against defendant. The written objection shall be filed with the court in which the matter is pending, and shall be served on the prosecuting attorney. If written objection is filed, the court shall **schedule an evidentiary hearing to** determine the admissibility of the evidence by use of the appropriate rules of evidence. If the defendant's attorney, or the defendant if the defendant is not represented by an attorney, does not file a written objection with the court to the use of the laboratory report and certificate within the time allowed by this section, then the report and certificate are admissible in evidence as provided in subrule (B)(1).

J. Kevin McKay
Court Administrator
63rd District Court
1950 East Beltline NE
Grand Rapids, MI 49525
(616) 632-7795
kevin.mckay@kentcountymi.gov